



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/1/Add.9
6 December 1996

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

Portugal (Macau)

1. At its 31st, 32nd and 33rd meetings, held on 20 and 31 November 1996, the Committee considered the second periodic report of Portugal relating to Macau concerning the rights covered by articles 1 to 15 of the Covenant (E/1990/6/Add.8), as well as the written replies to the additional questions drawn up by the pre-sessional working group (E/C.12/1995/LQ.10), and adopted, at its 54th meeting, held on 5 December 1996, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for its report and written replies to the list of issues, and for the open dialogue conducted between the Committee members and the large delegation from Macau.

3. The Committee notes that the report and the written replies to the list of issues have not been prepared in a manner which enable the Committee to adequately evaluate the enjoyment of economic, social and cultural rights in Macau.

B. Positive aspects

4. The Committee appreciates the efforts being made by the Portuguese Government to secure from the Government of the People's Republic of China all possible guarantees regarding respect for the provisions of the International Covenant on Economic, Social and Cultural Rights in the Territory of Macau

after 1999. The Committee notes the enactment of article 40 of the Basic Law of the Macau Special Administration Region which prescribes that the precepts of the Covenant, which are applicable to Macau, will continue to apply and shall be implemented through legislation enacted by the Special Administrative Region of Macau. The Committee hopes that the ongoing discussions between the Portuguese Government and the Chinese Government through the Sino-Portuguese Joint Liaison Group will lead to a continuation of the reporting practice under articles 16 and 17 of the Covenant beyond the year 1999.

5. The Committee notes with satisfaction that the Covenant was published on 31 December 1992 in Macau's Official Gazette in both official languages (Portuguese and Chinese) and also that its contents have been disseminated in the Administrative Region.

6. The Committee notes that in January 1991, the Portuguese Government gave the Chinese language (Cantonese) an official status comparable to that of Portuguese.

7. The Committee welcomes the efforts undertaken by the State party to extend coverage of social security, in particular in the private sector, as stated in Decree-Law No. 58/93/M which came into force in January 1994.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes that prevailing Chinese traditions, namely of avoiding direct confrontations and strikes in favour of personal or family ties, have not been conducive to the application of the laws concerning the right to collective bargaining and to strikes.

D. Principal subjects of concern

9. The Committee notes with concern that labour regulations are not enforced effectively in Macau, resulting in workers having to work under unfavourable and repressive conditions without access to legal recourse. Protective measures on working conditions and social security for non-resident workers are still lacking. Measures protecting the right to strike, the right to organize trade unions and the right to bargain collectively are also lacking.

10. The Committee is concerned that the majority of the population is not familiar with the judicial system of the Territory, and that insufficient measures have been adopted to ensure that the principles and the provisions of the Covenant are made widely known to the population.

11. The Committee, bearing in mind that China does not recognize dual nationality, expresses concern that residents of Macau, including civil servants who hold Portuguese passports, may not be able to stay in Macau after 1999.

12. The Committee notes with concern that no special programme aimed at helping the physically and mentally disabled to facilitate their access to employment, education and public facilities exists.

13. The Committee expresses concern that non-resident workers are not covered by the social security system.

14. Although Chinese constitute about 95 per cent of the population in Macau, the requirements for the civil service effectively exclude many persons of Chinese origin who cannot satisfy the criteria of being "local" because they lack a necessary language or other qualifications or for other reasons which cannot be overcome in a short period of time. The Committee, therefore, considers it necessary to incorporate persons of Chinese origin into the civil service in order to facilitate a smooth transmission of administration to China.

15. The Committee is further concerned that the territory does not have a procedure for the determination of minimum wages.

E. Suggestions and recommendations

16. The Committee takes note of the readiness of the State party to provide it with additional information in reply to the concerns expressed by it in the course of the discussion and recommends that in its replies the State party pay particular attention to the issue of family reunification and to the legislative provisions safeguarding the principles of the International Labour Organization Conventions No. 103 (Maternity Protection Convention) and No. 138 (Minimum Age Convention) and their practical applications.

17. The Committee recommends that appropriate measures be taken to effectively secure the economic, social and cultural rights of disabled persons, particularly through funding for special programmes aimed at helping the physically and mentally disabled to gain better access to employment, education and public facilities.

18. The Committee recommends, in view of the lack of sufficient information provided by the State party with respect to article 10 of the Covenant, that detailed information be provided on measures taken to implement the provisions of article 10. In that connection, the attention of the State party is drawn to the relevant parts of the Committee's revised guidelines regarding the form and contents of reports to be submitted by State parties.

19. The Committee urges the Portuguese Administration to take affirmative steps to facilitate the integration of persons of Chinese origin into the placement programme of the civil service.

20. The Committee urges the Portuguese Administration to promote appropriate policies which would facilitate the right to form labour unions, the right to engage in collective bargaining and the right to strike, so as to fill the gap between domestic law and the Covenant.

21. The Committee also urges the enactment of legislation on the right to social security so as to ensure full compliance with the requirements of the Covenant, and recommends that the State party extend the coverage of social security to non-resident workers.

22. The Committee urges the Portuguese Administration to make more efforts to disseminate the Covenant within the civil society.

23. The Committee welcomes the statement by the State party that measures shall be taken to develop information and awareness programmes on the judicial system of the Territory and on the principles and provisions of the Covenant in the various languages spoken in Macau. Additionally, the Committee recommends that comprehensive human rights training be provided to all segments of the population, including law enforcement officers and all the persons involved in the administration of justice.

24. The Committee strongly urges the Portuguese Administration to take all necessary measures to ensure that the reports under the Covenant are submitted after 1999.

25. The Committee encourages the State party to disseminate widely the concluding observations adopted by the Committee following the consideration of the State party's second periodic report.